United Nations A/HRC/34/G/13

General Assembly

Distr.: General
10 April 2017

Original: English

Human Rights Council
Thirty-fourth session
27 February-24 March 2017
Agenda item 2
Annual Report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Note verbale dated 22 March 2017 from the Permanent Mission of Turkey to the United Nations Office and other international organizations in Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the Republic of Turkey to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to convey a copy of the letter of the Minister of Foreign Affairs of the Turkish Republic of Northern Cyprus, Tahsin Ertugruloglu, which reflects the Turkish Cypriot views on the report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus dated 1 February 2017 (A/HRC/34/15), which was submitted to the Human Rights Council at its thirty-fourth session.

The Permanent Mission of the Republic of Turkey would appreciate it if the present note verbale and its annex* could be circulated as a document of the thirty-fourth session of the Human Rights Council.

* Reproduced as received, in the language of submission only.

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Annex to the note verbale dated 22 March 2017 from the Permanent Mission of Turkey to the United Nations Office and other international organizations in Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

Letter dated 22 March 2017 from the Minister of Foreign Affairs of the Turkish Republic of Northern Cyprus addressed to the High Commissioner for Human Rights

Excellency,

I have the honour to refer to Your Excellency's Report on the question of human rights in Cyprus (A/HRC/34/1 5) which was circulated on 1 February 2017 and to bring to your kind attention the following facts and considerations:

With reference to the "Introduction" section of the Report, which tries to reflect the situation in the Island, it is necessary to elaborate on various points which require clarification.

The references to the so-called "Government of the Republic of Cyprus" reflect neither the realities nor the legal position on the Island The Republic of Cyprus was founded in 1960 in accordance with the international Cyprus treaties namely the Treaties of Establishment, Alliance and Guarantee, by the Turkish Cypriot and the Greek Cypriot peoples when the British Government relinquished the sovereignty of Cyprus to the partnership Republic composed of the aforesaid politically equal partners 'acting conjointly and in partnership" The legitimacy of the 1960 Republic lay in the joint presence and effective participation of both peoples in all organs of the state Neither of the parties had the right to rule the other, or assume the right to be the Government of the whole island in the absence of the other in all the organs of the state and its Government In fact, the Cyprus problem was created by the Greek Cypriot side which destroyed the 1960 partnership Republic of Cyprus in 1963 in an effort to annexing the Island to Greece.

Ever since the forcible expulsion of the Turkish Cypriot co-founding partner from the 1960 partnership Republic, there has been no constitutional Government representing both peoples of the Island. The Turkish Cypriot people did not accept the forceful takeover of the Partnership State by the Greek Cypriot side in 1963 and, through their decisive resistance, prevented the Greek Cypriot side from extending its authority over them Since December 1963, there has not been a joint central administration on the Island, capable of representing both peoples, either legally or factually. Each side has since ruled itself, while the Greek Cypriot side has continued to claim that it is the "Government of Cyprus".

Within this context, I must add that references in Paragraph 10 to the effect that "Cyprus does not exercise control over all of its territory" is not compatible with the realities of the Island and deemed unacceptable as the report fails to mention the fact that a separate administration is present in the Northern Cyprus.

Paragraph 16 of the report, refers to mines laid by the Greek Cypriot "National Guard" in the north of Lefkosa/Nicosia on the Besparmak/Five Finger Mountain range, an area which is used for agriculture and as trekking path by the tourists, before and during 1974. It is disappointing to observe that no reference has been made to the fact that the Greek Cypriot side had not only kept this information concealed from the Turkish Cypriot side and the pertinent international organizations for 41 years, but also had acted reluctant to provide detailed information concerning the said minefields even for humanitarian reasons once the issue had been revealed. The Greek Cypriot side handed over detailed information of the said fields only when the negotiation process on the Cyprus issue had resumed on 15 May 2015 after a stalemate.

The report continues with the issue of mines in Paragraph 17 where reference is made to the minefield just North of the buffer zone in Alaykoy (Mammari) which caused a mine-wash in 2015. At the time of the event, the Turkish Cypriot side demonstrated full military cooperation with UNFICYP on the ground, in the form of sharing detailed information on the extent of the minefield and its contents. The UN de-miners were also allowed access to the mine-washed area from the northern part of the buffer zone in order to conduct a detailed reconnaissance mission, which enabled a comprehensive plan to be drawn up for the clearance operation. Consequently, demining operation commenced in May 2015 when, in the absence of a demining component within UNFICYP, the UN Secretary-General dispatched a team of de-miners from the UN Interim Force in Lebanon (UNIFIL) to the area.

The Turkish Cypriot side is in the process of commencing a demining operation in the area through procurement of services from an internationally accredited mine clearance company. Additionally, the Turkish Cypriot side is in the process of concluding the tender process for a minefield located to the west of Alaykoy (near Mammari, minefield no. 211), which was unfortunately delayed due to unexpected technical developments.

Within this context it should be noted that as part of the military confidence building measures the Turkish Cypriot side proposed to extend its demining activities to a mine field in the buffer zone in the area of Derinya, once the Greek Cypriot side completes demining of 3 minefields near Akincilar Village. However, this proposal has been rejected by the Greek Cypriot side despite being repeatedly put on the negotiating table.

The Turkish Cypriot authorities have been facilitating the Committee for Missing Persons' access to all relevant areas, including military zones, in Northern Cyprus and have granted access to excavation in 2 unfenced military zones per year since 2006, in addition to fenced military zones on a case-by-case basis in more recent years. Furthermore, on 5 November 2015, President Mustafa Akinci announced the access to 30 suspected burial sites located in the military zones, over a three year period, with ten sites to be excavated each year, which has already started. However, despite the initiatives and humanitarian stance of the Turkish Cypriot side in its approach and handling of the issue of missing persons, the Greek Cypriot side has long been pursuing a policy of politicizing the issue by taking it to international platforms such as the European Parliament, the Council of Europe or the European Court of Human Rights. In the Report of the Secretary-General published on 29 June 2012 (S/2013/507), it is stated that the Secretary-General "count(s) on the support of all parties to preserve the non-political and bi-communal character of the work of the Committee". Within this context, it should be noted that the Greek Cypriot side has been attempting to bypass the Committee for Missing Persons mechanism in order to gain political advantages based on unilateral decisions, thus acting in total contradiction to the request of the Secretary-General.

The Greek Cypriot side has also long pursued a policy of holding Turkey accountable for withholding access to information and burial sites in North Cyprus, thus preventing the progress of the Committee. It should be acknowledged that Turkey is not the counterpart of the Greek Cypriot side, which is also evidenced by the fact that the Committee itself is comprised of members from the two sides of the Island and an independent member from the UN. Furthermore, Turkey has long proven its support for the resolution of this issue and has made substantial contributions towards this end.

In Paragraph 23 the inclusion of terms such as "The Committee Against Torture called upon Turkey to enhance efforts to ensure criminal accountability" insinuates that Turkey has authority in the North. It ought to be underlined once again that Turkey has no authority or jurisdiction in North Cyprus. Northern Cyprus is under the full control and jurisdiction of the Turkish Cypriot authorities and, the responsibility for all matters, including legal proceedings as well as all human rights issues lies solely with the relevant Turkish Cypriot authorities. Therefore, this paragraph falls short of being objective and reflecting the real situation on the ground. I hope and trust that such misrepresentation of the realities on the Island have no further place in future reports.

The report refers to the Universal Declaration of Human Rights and that "all are equal before the law and are entitled without discrimination to equal protection of the law"

in Paragraph 24. However, the report in whole has failed to mention the racist attacks and acts of hatred carried out by the Greek Cypriots against Turkish Cypriots within the reporting period. For the sake of clarity, I would like to hereby remind you of some of these racially motivated unacceptable attacks.

A group of Greek Cypriots holding Greek and APOEL flags attacked Turkish Cypriot Can Kürsat's car while waiting at the red light on Makarios Street, one of the most crowded streets of Nicosia on 16 May 2016. No intervention was made by other Greek Cypriots who were around in order to stop the attackers while Kursat's car was being damaged. Kursat and his friends in the car barely escaped. A complaint was subsequently made to the Greek Cypriot police. However to this day no action has been taken.

It was reported in the Greek Cypriot daily Cyprus Mail in August 2016 that a group of around 200 protesters, composed of farmers, other potato exporters and seven MPs,showed up at the premises of a Greek Cypriot businessman Christos Christofi's company Sowrrano Fresh Ltd in Achna in the Famagusta district due to the fact that the businessman had made a deal with a Turkish Cypriot counterpart to bring over potatoes for export under the Green Line Regulation (GLR). The businessman was reported to have stated that the trouble had started in July when he made the deal on the Turkish Cypriot side to export potatoes that came from the North through ports of the Greek Cypriot Administration. Such trade is run under the GLR introduced by the EU in 2004 as part of a package to promote relations between the two sides. The article continued to state that when Christofi began bringing over potato consignments, unknown persons fired shots outside his house, therefore, be decided to stop for a while. Upon restarting the scheme a mob of around 200 people, including the MPs, protested outside the plant. It was reported that Christofi was harassed and received threats to burn down his packaging plant.

On 21 November 2016, a Turkish Cypriot taxi driver was attacked in Southern Cyprus after two Greek Cypriot men on a motorcycle cut in front of the taxi and forced the driver out. The two men, who recognized the Turkish Cypriot license plate, severely wounded the taxi driver, who was later hospitalized to assess his wounds This attack took place at a location very close to the Metehan checkpoint where crossings take place between North and South.

Another cause of great concern regarding such incidents is the fact that the Greek Cypriot side, which fails to take precautions against such events in the first place, also fails to penalize the perpetrators after they have occurred The tact has also been overlooked in the report which is extremely disappointing In this regard, it was reported in an article by the Greek Cypriot daily Alithia in November 2015 under the headline "Attacks by Greek Cypriots on the Turkish Cypriots go unpunished" that none of the attacks which took place against Turkish Cypriots between 2004 and 2012 have been penalized by the Greek Cypriot legal system The article further cites the statement of the Greek Cypriot Ombudsman, who confirmed that adequate investigation has not been carried out regarding any of the many attacks against Turkish Cypriots in Southern Cyprus.

As known, members of the far right organization ELAM, had disrupted a meeting in Limassol where former Turkish Cypriot President Mr, Mehmet Ali Talat was scheduled to make a speech in 2014 During the incident a flare had been thrown into the hail which had landed close to the US Ambassador to Cyprus, who also happened to be present at the event On 1 July 2016 the members of ELAM who carried out the attack were acquitted by a court in South Cyprus Talat blamed the South Cyprus police for 'not even trying to prevent the incident" and of not submitting enough evidence to the court.

Furthermore, in the Country Report of Cyprus completed by TOGETHER! (a project financed by the Justice Department of the European Commission) entitled "LET'S END HATE CRIME" in respect of ending hate crimes it is highlighted that in South Cyprus "there is no hate crimes as such Hate crime is not specifically addressed, defined or provided in the penal code or in other law, as a crime per se" The report states that Turkish Cypriots have been attacked by groups of Greek Cypriots because of their national origin' They also face racial discrimination especially in their workplace (i.e. unemployment benefits being refused or employer refusing to pay on time) The report also mentions that "reports from civil society organisations and migrant communities show that most

vulnerable groups to hate crimes are migrants, asylum seekers, refugees and Turkish Cypriots". The report underlines on numerous occasions that "formal reports on hate crime are very limited, almost non-existent and a formal policy on hate crimes fails to exist" A striking observance stated in the report was to the effect that "from our experience, hate crimes are either not identified or recorded properly, or even if properly recorded they are not prosecuted most of the times because of lack of necessary evidence always according to the authorities".

In its report on Cyprus, the Council of Europe's European Commission against Racism and Intolerance (ECRI) underlines that "Racist statements in the public sphere continue to be a common phenomenon" The ECRI Report on Cyprus adopted on 17 March 2016 and published on 7 June 2016, states that "ELAM promotes an anti-Semitic anti-Turkish Cypriot, racist and xenophobic agenda and is believed to be responsible for attacks on Turkish Cypriots and migrants".

Given these unfortunate realities, it was hoped and expected by the Turkish Cypriot side that these realities would be taken into account and reflected in the report it is also our hope that the Greek Cypriot legal system not only works to prevent the recurrence of acts of hatred and racism, but that they amend their legislation and practices to instil positive sentiments rather than enmity. Without a doubt, referencing these incidents in international reports and calling on the Greek Cypriot authorities to make sure the perpetrators are brought to justice could only serve as a deterrent in such cases.

The report makes reference to freedom of movement in Paragraph 30 and to the delays in progress on the opening of the two new crossings at Lefke-Aplic/Lefka-Aplici and DerinyalDheryma We would like to underline that we continue to be committed to the speedy completion of our duties and hope to see both crossings open simultaneously.

Paragraph 33 refers to progress in formerly announced confidence building measures (CBMs) and refers to the lifting of a requirement to fill in administrative forms at crossing points This act of good will took place upon the suggestion of the Turkish Cypriot side and implemented immediately without any preconditions However it is falsely reflected in the report as a mutual act On this note it should be highlighted that none of the CBMs announced by the Greek Cypriot side have been realised to date, due to Greek Cypriot induced obstacles.

It should be recalled that it was agreed to pursue five confidence building measures, including the operability of all mobile telephones throughout the entire Island The ongoing issue of the inability to use mobile phones while visiting the opposite side of the Island continues to hinder the daily lives of both communities In this connection, the Greek Cypriot side has failed to take any positive steps to enable the use of mobile phones on either side of the Island and continues to delay or hinder the process Other CBMs which have yet to be successfully concluded include the interconnectivity of the electrical systems and the resolution of TV and radio frequency interference between the two sides CBMs intend to improve the daily lives of both communities and bridge their existing gaps, irrespective of each sides' political positions The Turkish Cypriot side has always taken the necessary steps to overcome political or other impediments with a view to materializing projects within the scope of CBMs. The Greek Cypriot side, however, has chosen to use excuses not to reciprocate our efforts.

It has been observed with regret, in the section on property rights, that there has been no mention of the policies of Greek Cypriot administration vis-a-vis the Turkish Cypriot properties left in the South. Following its hijacking of the partnership government in 1963, the Greek Cypriot administration has unilaterally enacted a series of laws to regulate and control Turkish Cypriot owned land and properties located in South Cyprus. These laws are in blatant contradiction of one's universal right to property. Furthermore, the section fails to mention that the Greek Cypriot side has failed to propose any mechanism similar to the Immovable Property Commission in the North, to handle the issue of Turkish Cypriot properties located in South Cyprus The Greek Cypriot Administration has also failed to amend its legislation and practices which state that Turkish Cypriots may only claim their property rights following a settlement despite decisions and recommendations made by the European Court of Human Rights.

I would like to set the record straight in regard of figures stated in the section on freedom of religion and cultural rights. In the said section, the number of religious sites in North Cyprus where religious services were conducted for the first time during the reporting period has been cited as 2 (para. 38) whereas the number is actually 7 Moreover, within the same paragraph it states that 'UNFICYP facilitated the participation of more than 15,000 persons at some 50 religious services and commemorative events, which were either conducted in the buffer zone or required crossing the buffer zone ' There is a numerical error in this statement also as the Turkish Cypriot side approved 116 requests to conduct religious services in the religious sites situated in Northern Cyprus within the reporting period.

Also in Paragraph 42, several referrals have been made in this report to the Preliminary conclusions and observations by the Special Rapporteur in the field of cultural rights at the end of her visit to Cyprus, 24 May-2 June 2016 However, no such reference has been made to her findings in respect to many Muslim places of worship in South Cyprus which are locked at all times with no known procedures for applying for personal or collective access and/or religious pilgrimages, nor to her primary observations as to the question of who has possession of the key to the sites in question Moreover, many Turkish Cypriots continue to be totally prevented from crossing to South Cyprus on the basis of the origin of their ancestors, namely Turkey which was also mentioned in her preliminary findings This discriminatory Greek Cypriot policy, which currently applies to many Turkish Cypriots whose parents and themselves are born and brought up in Cyprus, constitutes a violation of not only freedom of movement but freedom of religion and access to religious sites.

Under the heading "Right of education", references have been made in Paragraph 49, regarding universities in the North and difficulties faced by students due to Greek Cypriot policy. Within the same paragraph a scholarship scheme for Turkish Cypriots is highlighted "in order to compensate for this lack of mobility" I feel compelled to underline that such a scheme does not even come close to override or replace the effects of the inhumane and unfair isolations imposed on the Turkish Cypriots I strongly believe that mentioning such a scholarship scheme undermines the severity of the difficulties faced and that the report should have explained that such a scheme falls short of being satisfactory.

It is disappointing to see that the report overlooks the well-founded reasons of the Turkish Cypriot authorities to review the text books to be used for teaching in Greek Cypriot schools in North Cyprus in Paragraph 49 It is a universally accepted fact that textbooks, in general, should not promote feelings of intolerance and animosity. Needless to say, in the case of Cyprus, it is imperative that all concerned help promote friendly and constructive relations between the two peoples on the Island In this spirit, the Turkish Cypriot side approaches the issue of textbooks with great sensitivity and has, in the past years, revised all its textbooks ensuring that they contain no elements of racial hatred or intolerance Unfortunately, Greek Cypriot textbooks still need revision and contain offensive material It is our firm belief that such material should be eradicated from textbooks and replaced with material more conducive to tolerance and reconciliation and that the report should have drawn attention to the shortcoming of the Greek Cypriot textbooks.

Within this context I find it imperative to refer to a recent decision taken by the House of Representatives of the Greek Cypriot Administration which decided to commemorate the 1950 Plebiscite (referendum) for "Enosis" (Union with Greece) in schools. As is known, "Enosis" was the movement which ignored the existence and identity of the Turkish Cypriot people as one of the co-owners of the island of Cyprus The fact is that the Greek Cypriot desire and actions to achieve Enosis caused the collapse of the 1960 Republic. Commemorating in young minds the very reason of this dark era and resurrecting the idea of Enosis once again, not only overlooks the sensitivities of the Turkish Cypriots, but also inevitably reminds us of the atrocities which took place for years I would like to once again repeat that this decision should be condemned immediately by all interested parties It is needless to remind that the said decision has caused tension.

It is highly appreciated that the final report has been updated to include that there has been no developments regarding the establishment of a Turkish language school in

Limassol As is known, there is a Greek language primary school and a Greek language secondary school in the Karpaz area in North Cyprus where Greek Cypriot students are taught by Greek Cypriot teachers and teaching material sent by the Greek Cypriot Ministry of Education. We believe it is high time the Greek Cypriot authorities respect the rights of the Turkish Cypriot students residing in South Cyprus, who are in greater numbers than Greek Cypriot students in North Cyprus, and provide them with the option to study at a Turkish language school in South Cyprus.

Having been isolated from the rest of the world, along with being denied some of their most basic human rights, the effort exerted by the Turkish Cypriot people to keep up with international expectations and obligations in the field of human rights, in my opinion should only be commended and perceived as their good faith and readiness to take their rightful place in the international arena.

I would like to take this opportunity to emphasize that the Turkish Cypriot side reiterates its strong commitment to continue its efforts for promoting human rights in North Cyprus.

I hope and trust that in the interest of reflecting a more objective and balanced account of the situation vis-à-vis the issue of human rights in Cyprus, the views and observations of the Turkish Cypriot side will be duly taken into consideration and would be reflected accordingly in future Reports of the Human Rights Council.

Please accept, Excellency, the assurances of my highest consideration.

(*Signed*) Tahsin **Ertugruloglu**
Minister of Foreign Affairs of the
Turkish Republic of Northern Cyprus